

S-3132

1 Amend House File 195, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting clause
4 and inserting:

5 <Section 1. Section 598.41D, Code 2011, is amended
6 to read as follows:

7 **598.41D Assignment of visitation or physical care**
8 **parenting time — parent serving active duty — family**
9 **member.**

10 1. Notwithstanding any provision to the contrary, a
11 parent who has been granted court-ordered visitation
12 with the parent's minor child may file an application
13 for modification of a decree or a petition for
14 modification of an order regarding child visitation,
15 prior to or during the time the parent is serving
16 active duty in the military service of the United
17 States, to temporarily assign that parent's visitation
18 rights to a family member of the minor child, as
19 specified by the parent. The application or petition
20 shall be accompanied by an affidavit from the family
21 member indicating the family member's knowledge of the
22 application or petition and willingness to exercise the
23 parent's visitation rights during the parent's absence.
24 The application or petition shall also request any
25 change in the visitation schedule necessitated by the
26 assignment.

27 2. Notwithstanding any provision to the contrary,
28 a parent who has been granted court-ordered physical
29 care or joint physical care of the parent's minor child
30 may file an application for modification of a decree
31 or a petition for modification of an order regarding
32 child custody, prior to or during the time the parent
33 is serving active duty in the military service of the
34 United States, to temporarily assign the parent's
35 physical care parenting time to a family member of
36 the minor child, as specified by the parent. The
37 application or petition shall be accompanied by an
38 affidavit from the family member indicating the family
39 member's knowledge of the application or petition
40 and willingness to exercise the parent's physical
41 care parenting time during the parent's absence.
42 The application or petition shall also request any
43 change in the physical care parenting time schedule
44 necessitated by the assignment.

45 2. 3. a. If the active duty of a parent affects
46 the parent's ability or anticipated ability to appear
47 at a regularly scheduled hearing, the court shall
48 provide for an expedited hearing in matters instituted
49 under this section.

50 b. If the active duty or anticipated active duty of

1 a parent prevents the parent from appearing in person
2 at a hearing, the court shall provide, upon reasonable
3 advance notice, for the parent to present testimony
4 and evidence by electronic means in matters instituted
5 under this section. For the purposes of this
6 paragraph, "electronic means" includes communication by
7 telephone, video teleconference, or the internet.

8 ~~3.~~ 4. a. The court may grant the parent's request
9 for temporary assignment of visitation or physical
10 care parenting time and any change in the visitation
11 or physical care parenting time schedule requested if
12 the court finds that such assignment of visitation or
13 physical care parenting time is in the best interest
14 of the child.

15 b. In determining the best interest of the child,
16 the court shall ensure all of the following:

17 (1) That the specified family member is not a sex
18 offender as defined in section 692A.101.

19 ~~(2) That the specified family member does not have~~
20 ~~a history of domestic abuse, as defined in section~~
21 ~~236.2. In determining whether a history of domestic~~
22 ~~abuse exists, the court's consideration shall include~~
23 ~~but is not limited to commencement of an action~~
24 ~~pursuant to section 236.3, the issuance of a protective~~
25 ~~order against the individual or the issuance of a~~
26 ~~court order or consent agreement pursuant to section~~
27 ~~236.5, the issuance of an emergency order pursuant to~~
28 ~~section 236.6, the holding of an individual in contempt~~
29 ~~pursuant to section 664A.7, the response of a peace~~
30 ~~officer to the scene of alleged domestic abuse or the~~
31 ~~arrest of an individual following response to a report~~
32 ~~of alleged domestic abuse, or a conviction for domestic~~
33 ~~abuse assault pursuant to section 708.2A.~~

34 ~~(3) That the specified family member does not have~~
35 ~~a record of founded child or dependent adult abuse.~~

36 ~~(4)~~ (2) That the specified family member has an
37 established relationship with the child and assigning
38 visitation or physical care parenting time to the
39 specified family member will provide the child the
40 opportunity to maintain an ongoing family relationship
41 that is important to the child.

42 ~~(5)~~ (3) That the specified family member ~~is able~~
43 demonstrates an ability to personally and financially
44 support the child and will support the child's
45 relationship with both of the child's parents during
46 the assigned visitation or physical care parenting
47 time.

48 c. In determining the best interest of the child,
49 the court shall consider:

50 (1) Whether the specified family member has a

1 history of domestic abuse, as defined in section 236.2.
2 In determining whether a history of domestic abuse
3 exists, the court's consideration shall include but
4 is not limited to commencement of an action pursuant
5 to section 236.3, the issuance of a protective order
6 against the individual or the issuance of a court order
7 or consent agreement pursuant to section 236.5, the
8 issuance of an emergency order pursuant to section
9 236.6, the holding of an individual in contempt
10 pursuant to section 664A.7, the response of a peace
11 officer to the scene of alleged domestic abuse or the
12 arrest of an individual following response to a report
13 of alleged domestic abuse, or a conviction for domestic
14 abuse assault pursuant to section 708.2A.

15 (2) Whether the specified family member has a
16 record of founded child or dependent adult abuse.

17 4. 5. An order granting assignment of visitation
18 rights or physical care parenting time under this
19 section does not create separate rights to visitation
20 or physical care parenting time for a person other than
21 the parent. An order granting assignment of visitation
22 or physical care parenting time under this section
23 does not grant any custodial or parental rights to any
24 person who is not the parent of the child.

25 6. An order granted under this section may
26 temporarily assign visitation or physical care
27 parenting time that is equal to or less than the
28 visitation or physical care parenting time awarded to
29 the parent whose visitation or physical care parenting
30 time is assigned.

31 5. 7. The parent whose visitation rights are or
32 physical care parenting time is temporarily assigned
33 shall provide a copy of the order granting assignment
34 of visitation or physical care parenting time to the
35 school and school district of the child to whom the
36 order applies.

37 6. 8. An order granting temporary assignment
38 of visitation rights or physical care parenting
39 time pursuant to this section shall terminate
40 upon notification of the court by the parent or
41 automatically upon the parent's completion of active
42 duty, whichever occurs first.

43 7. 9. After a parent completes active duty, if an
44 application for modification of a decree or a petition
45 for modification of an order is filed, the parent's
46 absence due to active duty or the assignment of
47 visitation rights or physical care parenting time does
48 not constitute a substantial change in circumstances,
49 and the court shall not consider a parent's absence due
50 to that active duty or the assignment of visitation

1 ~~rights~~ or physical care parenting time in making a
2 determination regarding the best interest of the child
3 relative to such an application or petition filed after
4 a parent completes active duty.

5 ~~8.~~ 10. As used in this section, "*active duty*"
6 means active military duty pursuant to orders issued
7 under Tit. X of the United States Code. However, this
8 section shall not apply to active guard and reserve
9 duty or similar full-time military duty performed by
10 a parent when the child remains in actual custody of
11 the parent.

12 11. As used in this section, "*parenting time*" means
13 actual time spent with the child as specified in a
14 decree or order, but does not include any other element
15 of legal custody, physical care, or joint physical
16 care.

17 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being
18 deemed of immediate importance, takes effect upon
19 enactment.>

COMMITTEE ON VETERANS AFFAIRS
DARYL BEALL, CHAIRPERSON